

REMARKS

Claims 1, 2 and 6 are pending in this application. By this Amendment, new claim 6 is added. Support for new claim 6 may be found in the present specification at, for example, paragraphs [0026], [0036] and [0039]. No new matter is added.

I. Interview

The courtesies extended to Applicants' representative by Examiner Robinson at the interview held January 27, 2009, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below, which constitute Applicants' record of the interview.

The Amendment filed January 22, 2009, was discussed. Applicants' representative argued that the amendment to claim 1 therein overcomes the two rejections under 35 U.S.C. §102(b). The Examiner tentatively agreed, but stated that further review of the references would be required.

The rejection under 35 U.S.C. §103(a) over Brittain and other applied references was then discussed. Applicants' representative argued that the teachings of Brittain cannot be combined with the teachings of the other applied references, because the teachings of Brittain *only* apply to conglomerates and there is no teaching in the applied references that the presently claimed compound *in particular* is a conglomerate, as was argued in the January 22, 2009, Amendment. The Examiner stated that further review of the references and the presently claimed invention would be necessary, as well as further searching.

II. New Claim 6

By this Amendment, new dependent claim 6 is added. Claim 6 recites that "the solvent is selected from the group consisting of methanol and ethyl acetate; and wherein the optical purity of the optically active substance produced by the process is 80%ee or more."

Applicants respectfully submit that the features of dependent claim 6 achieve highly *unexpected results*. Specifically, as is shown in paragraphs [0036] and [0039] of the present specification, the use of methanol or ethyl acetate as the solvent unexpectedly achieves much higher purity levels as compared to other solvents. See paragraphs [0037] and [0038] for comparison. Achieving a purity level of 80%ee is highly advantageous and unexpected as compared to the low purity level such as 11.42%ee or 52.49% achieved by other solvents. Accordingly, these features would not have been obvious over any of the applied references.

III. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Samuel T. Dangremond
Registration No. 60,466

JAO:STD/emd

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OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

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